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No. 108

In the Supreme Court of the United States

OCTOBER TERM, 1950

INTERNATIONAL BROTHERHOOD OF ELECTRICAL WORKERS, LOCAL 501, A. F. OF L., AND WILLIAM PATTERSON, PETITIONERS

v.

NATIONAL LABOR RELATIONS BOARD

ON PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE SECOND CIRCUIT

BRIEF FOR THE NATIONAL LABOR RELATIONS BOARD IN OPPOSITION

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OPINIONS BELOW

The opinion of the court below (R. 323-332) is reported at 181 F. 2d 34. The findings of fact, conclusions of law, and order of the National Labor Relations Board (R. 295-300, 241-284) are reported at 82 NLRB 1028.

JURISDICTION

The decree of the court below was entered on April 6, 1950 (R. 336-337). The petition for a writ of certiorari was filed on June 2, 1950. The jurisdiction of this Court is invoked under Section 10 (e) of the National Labor Relations Act, as amended, and under 28 U. S. C. 1254 (1).

STATUTE INVOLVED

The pertinent provisions of the Labor Management Relations Act of 1947 (61 Stat. 136, 29 U. S. C., Supp. II, 141, *et seq.*), are set forth in the Appendix to the petition (pp. 45-50).

QUESTIONS PRESENTED

The Board found that petitioners conducted a secondary boycott in violation of Section 8 (b) (4) (A) of the Labor Management Relations Act by inducing and encouraging employees of Deltorto, a subcontractor, to engage in a strike or concerted refusal to perform services for their employer, an object thereof being to force Giorgi, the general contractor, to cease doing business with another subcontractor, Langer, both of whom have their principal place of business in New York. Petitioners induced or encouraged the boycott by picketing at the situs of a construction project at Greenwich, Connecticut, on which all three contractors were engaged, but at a time when only the employees of Deltorto were working. The questions presented are:

1. Whether the Board properly exercised jurisdiction over the unfair labor practice.

2. Whether the Board's finding that an object of the picketing was to force Giorgi to cease doing business with Langer is supported by substantial evidence.

3. Whether the secondary boycott was beyond the reach of Section 8 (b) (4) (A) because accomplished through peaceful picketing.

4. Whether the Board's order is proper on the unfair labor practice found.

STATEMENT

A. *The facts as found by the Board.*—Upon the usual proceedings under Section 10 of the National Labor Relations Act, as amended, the Board, on April 12, 1949, issued its findings of fact, conclusions of law, and order. The pertinent facts may be summarized as follows:[1]

Petitioner, International Brotherhood of Electrical Workers, Local 501, A. F. of L. (hereinafter referred to as the IBEW) is a labor organization, which has its principal office at Mt. Vernon, New York, and is engaged in promoting and protecting the interests of its members (R. 254; 6, 11). Its business representative or agent is petitioner William Patterson (R. 254; 7, 11).

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[1] In the following statement record references which precede the semicolon are to the Board's findings; succeeding references are to the supporting evidence.

Prior to the events which gave rise to the instant proceedings, the IBEW had become involved in a dispute with Samuel Langer, an electrical contractor whose place of business is in Port Chester, New York (R. 256, n. 32; 92-93), because he was operating as a non-union employer. Langer's business consists of the installation of electrical wiring fixtures, and equipment for light and power in new construction, including homes, commercial holdings, and industrial plants, maintenance of electrical equipment in industrial plants, and miscellaneous installation, repair, and replacement of electrical fixtures and equipment (R. 248; 56-57). Langer's total business from July 1, 1947 to July 1, 1948, the period pertinent to these proceedings, amounted to about $24,443 (R. 248; 57).

During that period Langer purchased about $8,095 worth of materials (R. 248; 61), of which about $5,095 worth were secured by Langer from points outside the State of New York (R. 248; 61). During the same period, Langer performed work outside New York, all of it on jobs in Connecticut, valued at about $8,402 (R. 248-249; 61). Materials for those Connecticut jobs, one of which was the house here involved, were transported by Langer from his Port Chester shop to Connecticut sites (R. 249; 61-62). Langer estimated that the value of the material thus transported from New York to Connecticut was approximately $2,700 (R. 249; 62).

In December 1947, Giorgi Construction Company, a partnership having its place of business at Port Chester, New York, entered into a general contract for the construction of a private dwelling house in Greenwich, Connecticut (R. 245-246; 39-40). The contract price of the house was $15,200 (*ibid.*). The construction of the house was begun in the middle of December 1947 (*ibid.*). Giorgi performed part of the work, for the most part masonry work, with his own employees (*ibid.*). In the construction of the house, Giorgi used various masonry materials valued at approximately $1,800 (R. 246; 54). These materials were purchased by Giorgi from a New York concern which delivered the materials from Port Chester, New York, to the construction site in Connecticut (R. 246; 42).

Giorgi subcontracted the electrical work on the house to Langer (R. 247; 40-41),[2] and subcontracted the carpentry work to one Nicholas Deltorto, a carpenter contractor (R. 247; 41). By the middle of April 1948, Langer's two electricians, neither of whom was a member of the IBEW (R. 256; 77), had completed the roughing-in part of the electrical work on the house (R. 256; 77).

After Langer's electricians had completed the roughing stage of the electrical work, which must

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[2] The contract price, covering all the electrical work to be done on the house, was $325 (R. 247; 53).

be done before the walls of the house can be finished, petitioner Patterson, the IBEW's business representative, visited the Greenwich house (R. 257; 160-161). He talked with Nicholas Deltorto, whose two carpenter employees, Ralph Ciancia and Angelo Bova, both members of the Carpenters union, were the only men then at work on the job (R. 257; 159-161). Patterson told Deltorto that the electrical work was being done by a non-union contractor (*ibid.*). Deltorto stated that he did not know who was doing the electrical work (*ibid.*). Patterson then asked Ciancia, one of the carpenters, if he knew that the job was non-union (R. 257; 177-178). Ciancia replied that he did not know that there were non-union men on the job (*ibid.*).

On April 16, Patterson again visited the Greenwich house when Deltorto, Ciancia, and Bova were the only ones present (R. 258; 161). Ciancia and Bova were working together on a scaffold at the time (R. 258; 183). Patterson talked only with Deltorto, but Bova, at least, overheard some of the conversation (R. 258; 183). Patterson, in substance, told Deltorto that the job was unfair because the electrical work was being done by a non-union organization (R. 258; 162). Deltorto again replied that he "didn't know about that" (*ibid.*). Patterson commented that he "was sorry," and within 5 minutes, began to picket the house with a placard which read, "This job is unfair to organized labor; IBEW 501 AFL" (R. 258; 162).

When Bova noticed Patterson with the placard, he suggested to his fellow carpenter Ciancia that they get down off the scaffold to "see what it's all about" (R. 258-259; 183). After they had read the legend on the placard, Bova said that he did not know what to do. Ciancia stated, "There's only one thing to do. Let's go home" (*ibid.*). Thereupon, the two employees informed Deltorto that they were stopping work (R. 258-259; 162, 180, 183). All three then left the construction site (*ibid.*). Thereafter Deltorto informed the general contractor, Giorgi, that "his carpenters had walked off the job because the electrical delegate had picketed the job" (R. 259; 44). Giorgi replied that he would have the matter "straightened out" (R. 259; 165).

That night Patterson notified Giorgi that Langer was "unfair" and that he "would have to replace Samuel Langer with a union contractor in order to complete the job," and that if Giorgi did not replace Langer he "would probably not receive any skilled trades to finish the rest of the work" (R. 259; 46-47).

On April 17, Giorgi notified Langer of what had happened and informed him that in order for Giorgi to finish the house and get his money, Giorgi would have to obtain a union electrical subcontractor to do the rest of the electrical work (R. 259; 46, 77-78). Langer agreed to release Giorgi from his contract stating that he would step aside so that a union

contractor could take over (*ibid.*). Thereafter, Langer performed no further work on the Greenwich house and Giorgi made arrangements with a union electrical subcontractor to finish the electrical work (R. 259-260; 48). Several days later Giorgi informed Deltorto that the trouble on the Greenwich house had been "straightened out" (R. 259-260; 165). Thereupon, Deltorto's carpenters returned to work on that project (*ibid.*).

B. *The Board's conclusions.*—The Board found that both Langer and Giorgi were engaged in commerce within the meaning of the Act and that petitioners' conduct herein affected commerce within the meaning of the Act (R. 245-249, 296).[3] The Board found that petitioners, by picketing the construction job here involved, induced or encouraged the employees of Deltorto, a subcontractor of Giorgi, the general contractor, to engage in a strike or concerted refusal in the course of their employment to perform services for Deltorto, an object thereof being to force or require Giorgi to cease doing business with Langer, another subcontractor on the same construction job (R. 297). The Board, reversing the trial examiner, held that the picket-

[3] The Board declared (R. 296) that it would assert jurisdiction here "for the reasons stated in the majority opinion in the *Watson* case" (*Local 74, United Brotherhood of Carpenters, et al.* v. *National Labor Relations Board*, petition for certiorari pending, No. 85, this Term). The two dissenting members of the Board stated that, because the case involved "an essentially local enterprise with only the most remote effect upon commerce," they would, as a discretionary matter, refuse to assert jurisdiction (R. 299).

ing herein was not exempted from the reach of Section 8 (b) (4) (A) by Section 8 (c). The Board said (R. 297): "Section 8 (b) (4) (A) prohibits peaceful picketing, as well as other means of inducement or encouragement, in furtherance of an objective proscribed therein, and * * * Section 8 (c) does not immunize such conduct."[4] Accordingly, the Board concluded that petitioners' conduct was in violation of Section 8 (b) (4) (A) of the Act (*ibid.*).

C. *The Board's order.*—The Board ordered petitioners to cease and desist from inducing or encouraging the employees of Deltorto or any employer, by picketing or related conduct, to engage in a strike or a concerted refusal in the course of their employment to perform any services, where an object thereof is to force or require Giorgi Construction Company or any other employer or person to cease doing business with Langer (R. 297-298). The order also requires petitioners to post the customary notices of compliance (R. 298).

D. *The proceedings in the Court of Appeals.*—On May 16, 1949, petitioners filed in the court below a petition to review and set aside the Board's order

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[4] The Board adopted by reference (R. 297, n. 5) the reasoning set forth in its earlier opinion in *Wadsworth Bldg. Co., Inc., and Klassen & Hodgson, Inc.*, 81 NLRB 802, 807-816, holding in substance that peaceful picketing which contained no threat or force or promise of benefit, violated Section 8 (b) (4) (A) when it amounted to inducement or encouragement within Section 8 (b) (4) (A) of the Act, and was not rendered lawful by Section 8 (c).

(R. 301-310). On February 24, 1950, the court below handed down its opinion (R. 323-335) and on April 6, 1950, entered its decree (R. 336-337) enforcing the Board's order. Judge Clark dissented (R. 332).

ARGUMENT

1. Petitioners' contention (Pet. 33-43) that the Board was without jurisdiction over the unfair labor practice here found because the construction project at which the picketing occurred was an essentially local enterprise raises no substantial question warranting review. The unfair labor practice consisted of a secondary boycott against Giorgi, an object of which was to force Giorgi to cease doing business with Langer. The facts set forth in the Statement, pp. 4-5, *supra*, show, as the Board (R. 296, 245-254) and the court below found (R. 325-326), that both Langer and Giorgi were engaged generally in commerce within the meaning of the Act, and that petitioners' conduct affected such commerce. Indeed the construction project itself was interstate in character, being performed by New York contractors at a Connecticut site (R. 296). Petitioners' argument that the restraint upon commerce resulting from its boycott of Langer must be measured solely by the impact of the picketing at the particular project here involved (Pet. 34-35) was rejected by the Board for the same reason that it rejected the identical argument (R. 296) in *Local 74, United Brother-*

hood of Carpenters, et al., and Ira A. Watson Co., 80 NLRB 533, enforced *sub nom., Local 74, United Brotherhood of Carpenters, et al.* v. *National Labor Relations Board*, (C. A. 6), April 4, 1950, pending on petition for certiorari, No. 85, this Term. Here, as in the *Watson* case, it may reasonably be anticipated that petitioners' boycott of Langer may be extended to other enterprises which do business with Langer and may result in substantial curtailment of Langer's interstate business. See Brief for the National Labor Relations Board in Opposition, No. 85, this Term, pp. 10-14.[5]

2. Petitioners contend (Pet. 15-17) that the real purpose of their picketing was to eliminate the employment of non-union men on the construction project, a condition which Giorgi had created by permitting Langer to bring non-union electricians onto the project, and that, consequently, substantial evidence is lacking to support the Board's finding, sustained by the court below, that an object of

[5] Petitioners' claim (Pet. 40-42), that the decision below conflicts with the holding of the Court of Appeals for the Tenth Circuit in *Groneman* v. *IBEW, Local 354*, 177 F. 2d 995, with respect to application of the *de minimis* doctrine overlooks the fact that in the *Groneman* case there was no finding that the boycott might extend beyond the local project there involved. The court in the *Groneman* case, 177 F. 2d, at 997, expressly reaffirmed its prior holdings in *United Brotherhood of Carpenters & Joiners of America* v. *Sperry*, 170 F. 2d 863, and *Slater* v. *Denver Bldg. & Construction Trades Council*, 175 F. 2d 608, which are in accord with the decision below on this point. Moreover, unlike the instant case, pp. 4-5, *supra*, the contractor involved in the *Groneman* case, as the court noted, was "operating a purely local business in no wise connected with anyone engaged in commerce" (*ibid.*).

the picketing was to force Giorgi to cease doing business with Langer. But the sufficiency of the evidence to support a Board finding is normally not a question warranting review by this Court. In any event, the record shows, as the Board and the court below found (R. 297, 326-328), that the picketing was not merely a protest against employment of non-union men but that it had as "an object * * * forcing or requiring Giorgi * * * to cease doing business with * * * Langer." The facts set out in the Statement show that the picketing took place at a time when Deltorto's union carpenters were at work, but when Langer's non-union electricians were not (R. 257, 297; 159-161); that after the carpenters had "walked off the job" because of the picketing, petitioner Patterson told Giorgi that Langer was "unfair," that Giorgi "would have to replace Samuel Langer with a union contractor in order to complete the job," and that if he did not do so, he "would probably not receive any skilled trades to finish the rest of the work" (R. 259; 46-47). That the picketing may also have had other objects (Pet. 15-16) is irrelevant under the very terms of Section 8 (b) (4) (A) (Appendix to petition, pp. 45-46). *Local 74, United Brotherhood of Carpenters, et al.* v. *National Labor Relations Board,* decided April 4, 1950 (C. A. 6), pending on petition for certiorari, No. 85, this Term; *National Labor Relations Board* v. *Wine, Liquor and Distillery Workers Union, Local 1, Etc., A. F. of L.*, 178 F. 2d 584, 586 (C. A.

2); *Shore* v. *Building & Construction Trades Council of Pittsburgh*, 173 F. 2d 678, 681-682 (C. A. 3). There are no contrary holdings.

Petitioners' further contention (Pet. 13-15, 17-19), that the mere circumstance that Langer was a subcontractor of Giorgi and was engaged on a common construction project with him establishes that Giorgi was not "doing business with" Langer, within the meaning of Section 8 (b) (4) (A), presents no substantial question warranting review. As the court observed (R. 327), "The phrase, 'doing business,' would ordinarily cover doing any business which the third party is free to discontinue, regardless of whether he is merely supplying materials to the employer, or has subcontracted with him to perform part of a work which the third party has himself contracted to do. . . . The phrase, 'cease doing business,' is general and admits of no such evasion," as petitioners suggest.[6]

[6] The cases cited by petitioners (Pet. 17-19) are not in point. *Mills* v. *United Association of Journeymen and Apprentices, et al.*, 83 F. Supp. 240 (W. D. Mo.) turned upon a point of jurisdiction (*id.*, 245-246), and the discussion of the phrase "cease doing business" therein was merely dictum (*id.*, 244-245). *Douds* v. *Metropolitan Federation of Architects*, 75 F. Supp. 672 (S.D. N.Y.), as the court below noted (R. 328), covers the situation, not presented here, "where the supposititious third person was only a disguise for the employer." Cf. *National Labor Relations Board* v. *Wine, Liquor & Distillery Workers Union, Local 1, etc., A. F. of L.*, 178 F. 2d 584-587 (C. A. 2). *Jennings* v. *Vincent's Admx.*, 284 Ky. 614, 145 S. W. 2d 537, relating to the contingent liability of general contractors under a state workmen's compensation law, is inapposite. The very purpose of such legislation is to obliterate the generally recognized legal distinction between participants in a common project, which might otherwise be

Petitioner's claim, for which no support in the language of the Act or the legislative history is shown (Pet. 10-11, 14-17, 19, 30-33), that Section 8 (b) (4) (A) is without application to contractor-subcontractor relationships in the construction industry, is entirely without substance. See Brief for the National Labor Relations Board in Opposition, No. 85, this Term, pp. 12-13.

This case does not present the problem, posed by petitioners, of distinguishing between an "object" and a mere incidental effect of picketing, where picketing of a subcontractor and his employees, with whom the Union is engaged in a labor dispute, is carried on at a construction site at which other contractors are also engaged. Cf. *Pure Oil Co.*, 84 NLRB 315; *Ryan Construction Corp.*, 85 NLRB, No. 76. The Board and the court below held (R. 297, 327), as the evidence shows, that the picketing in this case was directed not against Langer and his employees with whom the Union was engaged in a labor dispute, but against Deltorto and his employees, who alone were present when the picketing began, and through them against Giorgi. There is consequently no basis for petitioners' claim that the holding in this case impinges

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applied to deprive a subcontractor's employees of an effective remedy in cases of injury. *Hill* v. *American Surety Co.*, 200 U. S. 197 (Pet. 19), interpreting legislation to guarantee payment to persons who supply materials or labor for public construction projects, is indistinguishable, in principle, from the *Jennings* case.

upon legitimate organizational picketing in the construction industry.

3. Petitioners' contention (Pet. 19-28) that Section 8 (c) of the Act[7] must be read as exempting from Section 8 (b) (4) (A) the peaceful picketing here involved, which was designed to "induce or encourage" employees to engage in a secondary boycott, presents no question warranting review. The plain language of Section 8 (b) (4) (A) makes it an unfair labor practice for a labor organization to "induce or encourage" employees to engage in secondary strikes; the words "induce" and "encourage" on their face comprehend every form of influence and persuasion designed to achieve the forbidden objective. The legislative history of Section 8 (b) (4) (A) likewise demonstrates beyond question that Congress in that Section intended to reach, and fully understood that it was reaching, peaceful picketing and all other verbal means whereby labor organizations instigated secondary boycotts. In the course of debate on the bill, both proponents and opponents of the Section made it clear that the effect of the Section would be to make it unlawful for labor organizations to "incite" or "encourage" employees to engage in sec-

[7] Section 8 (c) provides that:

"The expressing of any views, argument or opinion, or the dissemination thereof, whether in printed, graphic, or visual form, shall not constitute or be evidence of an unfair labor practice under any of the provisions of this Act, if such expression contains no threat of reprisal or force or promise of benefit."

ondary strikes, whether by "appealing" to their sympathy, or by using other peaceful means of persuasion.[8] As the Board pointed out (*Wadsworth Bldg. Company, Inc., and K'assen & Hodgson, Inc.*, 81 NLRB 802, 812),

> It was Congress' belief that labor disputes should be confined to the business immediately involved and that unions should be prohibited from extending them to other employers by inducing and encouraging the latters' employees to exer economic pressure in support of their disputes. It was the *objective* of the unions' secondary activities, as legislative history shows, and not the *quality of the means* employed to accomplish that objective, which was the dominant factor motivating Congress in enacting that provision.

This view of the scope and purpose of Section 8 (b) (4) (A) has been adopted not only by the court below but also by the other courts of appeals which have considered the question. *Printing Specialties & Paper Converters Union, Local 388* v. *LeBaron*, 171 F. 2d 331, 334 (C. A. 9); *United Brotherhood of Carpenters and Joiners of America* v. *Sperry*, 170 F. 2d 863, 868-869 (C. A. 10).

Section 8 (c) of the Act was designed broadly to insure that utterances which amounted to no more

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[8] See *e.g.*, statements, in the course of debate on the proposed Act, of Senator Taft, 93 Cong. Rec. 4198-4199, 4867; Senator Pepper, 93 Cong. Rec. 4197-4200; and Senator Murray, 93 Cong. Rec. 4844. See also Minority Report of the Senate Committee on Labor and Public Welfare, S. Rep. No. 105, 80th Cong., 1st Sess., p. 19.

than expression of views, arguments, or opinion concerning the merits of labor controversies would not be deemed to constitute or be evidence of unfair labor practices. See Briefs for the National Labor Relations Board in Opposition in Nos. 701, Oct. Term, 1949, and 51, this Term. It was not intended or understood by Congress to apply to incitement to commit acts which Congress desired to discourage, incitement which was specifically branded an unfair labor practice. Nowhere in the course of debate on the bill, so far as we have been able to discover, was it even suggested that Section 8 (c) impinged upon Section 8 (b) (4) (A), or that conduct which fell within the literal terms of that Section would be preserved from illegality by Section 8 (c).[9] Since, as the Board noted in the *Wadsworth* case, the reading of Section 8 (c) urged by petitioner would in large measure vitiate Section 8 (b) (4) (A) by exempting from its scope numerous and traditional methods of inciting and inducing secondary boycotts, the absence of evidence in the legislative history to indicate that this was Congress' intention is persuasive that such a reading would do violence to the scheme of the Act and the

[9] It is significant that the House Bill, H. R. 3020, which contained the predecessor provision to Section 8 (c), (Section 8 (d) (1)), also contained a provision (Section 12(a)(2)) specifically prohibiting as an "unlawful concerted activity," picketing of an establishment where there was no dispute between the employer and his employees. The House obviously did not consider this provision incompatible with the type of protection accorded the expression of views or opinion by Section 8 (c).

purpose of Congress. Cf. *United States* v. *American Trucking Associations*, 310 U. S. 534, 542-544; *Chicago & Southern Air Lines* v. *Waterman Steamship Corp.*, 333 U. S. 103; *Harrison* v. *Northern ·st Co.*, 317 U. S. 476, 479.

The sole basis for petitioners' claim that Section 8 (c) exempts inducement or encouragement to engage in a secondary boycott unless accompanied by threats of reprisal or promise of benefit, is the fact that Section 8 (c) shields the utterances which it protects from being considered unfair labor practices under "any of the provisions of this Act," and the fact that Congress intended the guarantees of that Section to be applicable equally to labor organizations and to employers. But, as we have indicated above, Section 8 (c) was not designed to comprehend utterances which, *qua* incitement to commit prohibited acts, are themselves condemned as unfair labor practices by the statute. Incitement to commit acts in contravention of the policy of the statute is not protected by Section 8 (c) whether undertaken by labor organizations or by employers. Thus, it could hardly be argued successfully that Section 8 (c) would protect an employer who incited employees, though without threats or promise of benefit, to commit an assault upon a union organizer or upon union members. Cf. *National Labor Relations Board* v. *New Era Die Co.*, 118 F. 2d 500, 504 (C. A. 3); *National Labor Relations Board* v. *Goodyear Tire & Rubber Co.*,

129 F. 2d 661, 664 (C. A. 5); *Clover Fork Coal Co.* v. *National Labor Relations Board*, 97 F. 2d 331, 335 (C. A. 6); *National Labor Relations Board* v. *Sunshine Mining Co.*, 110 F. 2d 780, 792 (C. A. 9), certiorari denied, 312 U. S. 678. In a case decided after the amended Act the Court of Appeals for the Sixth Circuit held that an employer violated the Act by "soliciting" various citizens committees "through the dissemination of anti-union propaganda" to commit acts impinging on employee organizational rights and enforced a Board order prohibiting the employer from engaging in such conduct in the future. *National Labor Relations Board* v. *Salant & Salant, Inc.* (C. A. 6), decided June 2, 1950, enforcing 66 NLRB 24, 44, 111. Since the verbal conduct here involved was found to violate the Act not because it constituted an expression of views, argument or opinion, but because it constituted incitement or encouragement specifically condemned by the Act, Section 8 (c) is without application in this case. And, since employer incitement of prohibited acts is likewise not protected, it cannot be argued that the holding of the Board and the court below fails to give effect to the Congressional objective that Section 8 (c) should apply equally to utterances of labor organizations and employers. There is no conflict of decisions and none is claimed.

Petitioners' further claim (Pet. 28-33), that Section 8 (b) (4) (A), as here applied, invades

rights guaranteed by the First Amendment, is refuted by controlling decisions of this Court. *Giboney* v. *Empire Storage & Ice Co.*, 336 U. S. 490, 502-504; *International Brotherhood of Teamsters, et al.* v. *Hanke*, Nos. 309, 364, Oct. Term, 1949; *Building Service Employees International Union* v. *Gazzam*, No. 449, Oct. Term, 1949; *Hughes, et al.* v. *Superior Court of California*, No. 61, Oct. Term, 1949.

4. Petitioners' contention (Pet. 43) that the Board's order, upon the unfair labor practices found, is improper because it is too broad and conflicts with Section 8 (b) (4) (B), which permits secondary boycotts where intended to force recognition of a certified union (Pet. 46), presents no substantial question warranting review by this Court. The order (R. 297-298) does no more than enjoin petitioners from exerting the same kind of economic pressure against Langer through other employers as they exerted upon Langer through Giorgi and Deltorto in the instant case. The order thus plainly falls within the scope of the Board's authority, recognized by this Court, to prohibit other violations which resemble "that which [the offending party] has committed. . . ." *National Labor Relations Board* v. *Express Publishing Co.*, 312 U. S. 426, 437; *May Department Stores Co.* v. *National Labor Relations Board*, 326 U. S. 376, 392. Obviously, the order is not to be read so as to proscribe conduct which Section 8 (b) (4) (B) permits.

CONCLUSION

The decision below, sustaining the Board's findings and order, is correct and presents neither a conflict of decisions nor any substantial question warranting review. The petition for a writ of certiorari should be denied.

Respectfully submitted,

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